

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

FREDERICK A. POSTIE,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:14-00317
	:	
v.	:	
	:	(MANNION, D.J.) (MEHALCHICK, M.J.)
SGT. DUANE FREDERICK, et al.,	:	
	:	
Defendants	:	

ORDER

In light of the memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

- (1)** The report of Judge Mehalchick, (Doc. [22](#)), is **ADOPTED, IN PART**;
- (2)** The defendants' motion to dismiss plaintiff's complaint, (Doc. [15](#)), is **GRANTED, IN PART, AND DENIED, IN PART**;
- (3)** The plaintiff's objection, (Doc. [23](#)), will be sustained regarding the finding that *Heck* barred his constitutional claims against defendants Frederick and Sinton;
- (4)** The defendants' motion is **DENIED** with respect to the plaintiff's constitutional claims against defendants Frederick and Sinton under §1983, and the court will exercise its supplemental jurisdiction over the plaintiff's state law tort claims against these defendants;

- (5) The plaintiff's claims against defendant Rush Township under *Monell* are **DISMISSED WITHOUT PREJUDICE**;
- (6) The plaintiff's due process claim under the Fourteenth Amendment is **DISMISSED WITH PREJUDICE**;
- (7) All of the plaintiff's claims under the Fifth Amendment are **DISMISSED WITH PREJUDICE**;
- (8) The plaintiff's claims against defendants Bachart and Herring are **DISMISSED WITH PREJUDICE** and these defendants are dismissed from this case;
- (9) The plaintiff's request for declaratory judgment is **DISMISSED WITH PREJUDICE**;
- (10) The plaintiff is directed to file an amended complaint regarding his claims against defendant Rush Township and to clarify exactly which claims against defendants Frederick and Sinton are under §1983 or under state law, on or before **April 6, 2015**; and
- (11) The case is **REMANDED** to Judge Mehalchick for further proceedings.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Dated: March 17, 2015

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